

Panaji, 30th October, 2023 (Kartika 8, 1945)

SERIES II No. 30

# OFFICIAL GAZETTE



## GOVERNMENT OF GOA

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### EXTRAORDINARY

### No. 3

#### GOVERNMENT OF GOA

##### Department of Finance

Office of the Commissioner of Commercial Taxes

No. CCT/26-4/2023-24/G/2557

Subject: Clarification relating to export of services-sub-clause (iv) of the Section 2(6) of the IGST Act, 2017—regarding.

Ref.: Circular No. 202/14/2023-GST dated 27th October, 2023 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India New Delhi.

#### Circular

(No. 11/2023-24-GST)

The GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi, has issued the above referred Circular.

For the uniformity in implementation and in exercise of the powers conferred under Section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017). A copy of the above referred Circular is attached herewith as Annexure.

Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Vishant S. N. Gaunekar, Commissioner of State Taxes, Goa.

Panaji, 30th October, 2023.

#### ANNEXURE

Circular No. 202/14/2023-GST

F. No. 20/06/22/2023-GST-CBEC

Government of India

Ministry of Finance

Department of Revenue

Central Board of Indirect Taxes and Customs

GST Policy Wing

New Delhi, Dated the 27th October, 2023.

To,

The Pr. Chief Commissioners/Chief Commissioners/  
Principal Commissioners/Commissioners of Central Tax  
(All).

The Principal Directors General/Directors  
General (All).

Madam/Sir,

Subject: Clarification relating to export of services-sub-clause (iv) of the Section 2(6) of the IGST Act, 2017—reg.

Various representations have been received requesting for clarification regarding admissibility of export remittances received in Special INR Vostro account, as permitted by RBI, for the purpose of consideration of supply of services to qualify as export of services as per the provisions of Clause (6) of Section 2 of the Integrated Goods & Services Tax Act, 2017 (hereinafter referred to as the "IGST Act").

2. The issue has been examined and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by Section 168 (1) of the Central Goods & Services Tax Act, 2017 (hereinafter referred to as the "CGST Act"), hereby clarifies the issue as under:

## 3. Relevant legal provisions:-

3.1 Export of services has been defined under Clause (6) of Section 2 of IGST Act. As per the said definition, any supply of services needs to fulfill five conditions for it to qualify as export of services. Clause (6) of Section 2 of the IGST Act is reproduced below for reference:

*“(6) “export of services” means the supply of any service when,—*

- (i) the supplier of service is located in India;*
- (ii) the recipient of service is located outside India;*
- (iii) the place of supply of service is outside India;*
- (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and*
- (v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in Section 8;”*

3.2 One of the conditions mentioned in sub-clause (iv) of Section 2(6) of the IGST Act is that the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India.

3.3 Reference is invited to RBI's A.P. (DIR Series) Circular No. 10 dated 11th July, 2022 regarding International Trade Settlement in Indian Rupees (INR), vide which it has been clarified that to promote growth of global trade with emphasis on exports from India and to support the increasing interest of global trading community in INR, it has been decided to put in place an additional arrangement for invoicing, payment, and settlement of exports/imports in INR. Before putting in place this mechanism, AD banks shall require prior approval from the Foreign Exchange Department of Reserve Bank of India, Central Office at Mumbai. Para 3 of the Circular is reproduced below:

*“3. In terms of Regulation 7(1) of Foreign Exchange Management (Deposit) Regulations, 2016, AD banks in India have been permitted to open Rupee Vostro Accounts. Accordingly, for settlement of trade transactions with any country, AD bank in India may open Special Rupee Vostro Accounts of correspondent banks of the partner trading country. In order to allow settlement of international trade transactions through this arrangement, it has been decided that:*

*(a) Indian importers undertaking imports through this mechanism shall make payment in INR which*

*shall be credited into the Special Vostro account of the correspondent bank of the partner country, against the invoices for the supply of goods or services from the overseas seller/supplier.*

*(b) Indian exporters, undertaking exports of goods and services through this mechanism, shall be paid the export proceeds in INR from the balances in the designated Special Vostro account of the correspondent bank of the partner country.”*

3.4 Reference is also invited to Para 2.52 (d) of chapter related to General Provisions regarding Imports and Exports of the Foreign Trade Policy (FTP), 2023, which has come into force from 01-04-2023, which specifies that:

*Para 2.52 (d) Invoicing, payment and settlement of exports and imports is also permissible in INR subject to compliances as under RBI's A.P. (DIR Series) Circular No. 10 dated 11th July, 2022. Accordingly, settlement of trade transactions in INR shall take place through the Special Rupee Vostro Accounts opened by AD banks in India as permitted under Regulation 7(1) of Foreign Exchange Management (Deposit) Regulations, 2016, in accordance to the following procedures:*

*(i) Indian importers undertaking imports through this mechanism shall make payment in INR which shall be credited into the Special Vostro account of the correspondent bank of the partner country, against the invoices for the supply of goods or services from the overseas seller/supplier.*

*(ii) Indian exporters, undertaking exports of goods and services through this mechanism, shall be paid the export proceeds in INR from the balances in the designated Special Vostro account of the correspondent bank of the partner country.*

3.5 On perusal of the above, it can be stated that the condition(s) of sub-clause (iv) of Section 2(6) of the IGST Act, 2017, can be considered to be fulfilled when the Indian exporters, undertaking exports of services, are paid the export proceeds in INR from the balances in the designated Special Vostro Account of the correspondent bank of the partner trading country in terms of Regulation 7(1) of Foreign Exchange Management (Deposit) Regulations, 2016, as mandated by RBI's A.P. (DIR Series) Circular No. 10 dated 11th July, 2022 and reiterated further in Foreign Trade Policy, 2023.

4. Therefore, it is clarified that when the Indian exporters, undertaking export of services, are paid the export proceeds in INR from the Special Rupee Vostro Accounts of correspondent bank(s) of the partner trading country, opened by AD banks,

the same shall be considered to be fulfilling the conditions of sub-clause (iv) of Clause (6) of Section 2 of IGST Act, 2017, subject to the conditions/ /restrictions mentioned in Foreign Trade Policy, 2023 & extant RBI Circulars and without prejudice to the permissions/approvals, if any, required under any other law.

5. It is requested that suitable trade notices may be issued to publicize the contents of this Circular. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version will follow.

Sd/- (Sanjay Mangal), Principal Commissioner (GST).

No. CCT/26-4/2023-24/G/2558

Subject: Clarification regarding determination of place of supply in various cases-regarding.

Ref.: Circular No. 203/15/2023-GST dated 27th October, 2023 issued under the Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

#### Circular

(No. 12/2023-24-GST)

The GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular. For the uniformity in implementation and in exercise of the powers conferred under Section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, GOI shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017). A copy of the above referred Circular is attached as Annexure.

Difficulty, if, any, in implementation of this Circular may please be brought to the notice of the undersigned.

Given under the seal of this Office.

Vishant S. N. Gaunekar, Commissioner of State Taxes, Goa.

Panaji, 30th October, 2023.

#### ANNEXURE

Circular No. 203/15/2023-GST

F. No. 20/06/22/2023-GST-CBEC

Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Indirect Taxes and Customs  
GST Policy Wing  
New Delhi, Dated the 27th October, 2023.

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/Commissioners of Central Tax (All).

The Principal Directors General/Directors General (All).

Madam/Sir,

Subject: Clarification regarding determination of place of supply in various cases-reg.

Representations have been received from the trade and field formations seeking clarification on certain issues with respect to determination of place of supply in case of—

- i. supply of service of transportation of goods, including through mail and courier;
- ii. supply of services in respect of advertising sector; and
- iii. supply of the “co-location services”.

2. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by Section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby clarifies the issues as under:

Sr. No.	Issue	Clarification
<b>A. Place of supply in case of supply of service of transportation of goods, including through mail and courier</b>		
1.	Sub-section (9) of Section 13 of Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as "IGST Act") has been omitted vide Section 162 of Finance Act, 2023 which will come into effect from 01-10-2023. After the said amendment, doubts have been raised as to whether the place of supply in case of service of transportation of goods, including through mail and courier in cases where location of supplier of services or location of recipient of services is outside India, will be determined as per sub-section (2) of Section 13 of IGST Act or will be determined as per sub-section (3) of Section 13 of IGST Act	<p>1.1 Place of supply of services where location of supplier or location of recipient is outside India is determined as per Section 13 of the IGST Act. Sub-section (9) of Section 13 of IGST Act provided that where one of the supplier of the services or the recipient of services is located outside India, the place of supply of services of transportation of goods, other than by way of mail or courier, shall be the place of destination of such goods. The said sub-section has been omitted vide Section 162 of Finance Act, 2023 which will come into effect from 01-10-2023. It is hereby clarified that after the said amendment comes into effect, the place of supply of services of transportation of goods, other than through mail and courier, in cases where location of supplier of services or location of recipient of services is outside India, will be determined by the default rule under Section 13(2) of IGST Act and not as performance based services under sub-section (3) of Section 13 of IGST Act. Accordingly, in cases where location of recipient of services is available, the place of supply of such services shall be the location of recipient of services and in cases where location of recipient of services is not available in the ordinary course of business, the place of supply shall be the location of supplier of services.</p> <p>1.2 Further, it is also mentioned that the place of supply in case of service of transportation of goods by mail or courier was not covered under the provisions of sub-section (9) of Section 13 before the said sub-section was amended/omitted. Therefore, on the same principles as mentioned above, the place of supply in case of service of transportation of goods by mail or courier will continue to be determined by the default rule under Section 13(2) of IGST Act i.e., in cases where location of recipient of services is available, the place of supply of such services shall be the location of recipient of services and in cases where the location of recipient of services is not available in the ordinary course of business, the place of supply shall be the location of supplier of services.</p>

B. Place of supply in case of supply of services in respect of advertising sector

2. Advertising companies are often involved in procuring space on hoardings/bill boards erected and mounted on buildings/land, in different States, from various suppliers ("vendors") for providing advertisement services to its corporate clients. There may be variety of arrangements between the advertising company and its vendors as below:

(i) There may be a case wherein there is supply (sale) of space or supply (sale) of rights to use the space on the hoarding/structure (immovable property) belonging to vendor to the client/advertising company for display of their advertisement on the said hoarding/structure. What will be the place of supply of services provided by the vendor to the advertising company in such case?

(ii) There may be another case where the advertising company wants to display its advertisement on hoardings/bill boards at a specific location availing the services of a vendor. The responsibility of arranging the hoardings/bill boards lies with the vendor who may himself own such structure or may be taking it on rent or rights to use basis from another person. The vendor is responsible for display of the advertisement of the advertisement company at the said location. During this entire time of display of the advertisement, the vendor is in possession of the hoarding/structure at the said location on which advertisement is displayed and the advertising company is not occupying the space or the structure.

In this case, what will be the place of supply of such services provided by the vendor to the advertising company?

2.1 It is clarified that the place of supply in the case supply of services in respect of advertising sector, in the cases referred in (i) and (ii), shall be determined as below:

2.2 Place of supply in Case (i): The hoarding/structure erected on the land should be considered as immovable structure or fixture as it has been embedded in earth. Further, place of supply of any service provided by way of supply (sale) of space on an immovable property or grant of rights to use an immovable property shall be governed by the provisions of Section 12(3)(a) of IGST Act. As per Section 12(3)(a) of IGST Act, the place of supply of services directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work shall be the location at which the immovable property is located. Therefore, the place of supply of service provided by way of supply of sale of space on hoarding/structure for advertising or for grant of rights to use the hoarding/structure for advertising in this case would be the location where such hoarding/structure is located.

2.3 Place of supply in Case (ii): In this case, as the service is being provided by the vendor to the advertising company and there is no supply (sale) of space/supply (sale) of rights to use the space on hoarding/structure (immovable property) by the vendor to the advertising company for display of their advertisement on the said display board/structure, the said service does not amount to sale of advertising space or supply by way of grant of rights to use immovable property. Accordingly, the place of supply of the same shall not be covered under Section 12(3)(a) of IGST Act. Vendor is in fact providing advertisement services by providing visibility to an advertising company's advertisement for a specific period of time on his structure possessed/taken on rent by him at the specified location. Therefore, such services provided by the Vendor to advertising company are purely in the nature of advertisement services in respect of which place of supply shall be determined in terms of Section 12(2) of IGST Act.

C. Place of supply in case of supply of the “co-location Services”

3. Co-location is a data center facility in which a business/company can rent space for its own servers and other computing hardware along with various other bundled services related to hosting and Information Technology (IT) infrastructure.

A business/company who avails the co-location services primarily seek security and upkeep of its server/s, storage and network hardware; operating systems, system software and may require to interact with the system through a web-based interface for the hosting of its websites or other applications and operation of the servers. In this respect, various doubts have been raised as to

- i. whether supply of co-location services are renting of immovable property service (as it involves renting of space for keeping/storing company's hardware/servers) and hence the place of supply of such services is to be determined in terms of provision of Clause (a) of sub-section (3) of Section 12 of the IGST Act which is the location where the immovable property is located; or
- ii. whether the place of supply of such services is to be determined related to technology by the default place of supply provision under sub-section (2) of Section 12 of the IGST Act as the supply of service is Hosting and Information Technology (IT) Infrastructure Provisioning services involving providing services of hosting the servers and related hardware, security of the said hardware, air conditioning, uninterrupted power supply, fire protection system, network connectivity, backup facility, firewall services, 24 hrs. monitoring and surveillance service for ensuring continuous operations of the servers and related hardware, etc.

3.1 It is clarified that the co-location services are in the nature of “Hosting and Information Technology (IT) infrastructure provisioning services”.

(S. No. 3 of Explanatory notes of SAC-998315). Such services do not appear to be limited to the passive activity of making immovable property available to a customer as the arrangement of the supply of co-location services not only involves providing of a physical space for server/network hardware along with air conditioning, security service, fire protection system and power supply but it also involves the supply of various services by the supplier related to hosting and information technology infrastructure services like network connectivity, backup facility, firewall services, and monitoring and surveillance service for ensuring continuous operations of the servers and related hardware, etc. which are essential for the recipient business/company to interact with the system through a web based interface relating to the hosting and operation of the servers.

3.2 In such cases, supply of co-location services cannot be considered as the services of supply of renting of immovable property. Therefore, the place of supply of the co-location services shall not be determined by the provisions of Clause (a) of sub-section (3) of Section 12 of the IGST Act but the same shall be determined by the default place of supply provision under sub-section (2) of Section 12 of the IGST Act i.e. location of recipient of co-location service.

3.3 However, in cases where the agreement between the supplier and the recipient is restricted to providing physical space on rent along with basic infrastructure, without components of Hosting and Information Technology (IT) Infrastructure Provisioning services and the further responsibility of upkeep, running, monitoring and surveillance, etc. of the servers and related hardware is of recipient of services only, then the said supply of services shall be considered as the supply of the service of renting of immovable property. Accordingly, the place of supply of these services shall be determined by the provisions of Clause (a) of sub-section (3) of Section 12 of the IGST Act which is the location where the immovable property is located.

3. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

Sd/- (Sanjay Mangal), Principal Commissioner (GST).

No. CCT/26-4/2023-24/G/2559

ANNEXURE

Subject: Clarification on issues pertaining to  
 taxability of personal guarantee and  
 corporate guarantee in GST-regarding.

Circular No. 204/16/2023-GST

F. No. 20/06/22/2023-GST-CBEC

Ref.: Circular No. 204/16/2023-GST dated 27th October,  
 2023 issued under the Central Goods and  
 Services Tax Act, 2017 by the GST Policy Wing,  
 Central Board of Indirect Taxes and Customs,  
 Department of Revenue, Ministry of Finance,  
 Government of India, New Delhi.

Government of India  
 Ministry of Finance  
 Department of Revenue  
 Central Board of Indirect Taxes and Customs  
 GST Policy Wing  
 New Delhi, Dated the 27th October, 2023.

To,

**Circular**

(No. 13/2023-24-GST)

The GST Policy Wing, Central Board of Indirect  
 Taxes and Customs, Department of Revenue,  
 Ministry of Finance, Government of India, New Delhi  
 has issued the above referred Circular.

The Principal Chief Commissioners/Chief  
 Commissioners/Principal Commissioners/Commissioners  
 of Central Tax (All).

The Principal Directors General/Directors  
 General (All).

Madam/Sir,

Subject: Clarification on issues pertaining to  
 taxability of personal guarantee and  
 corporate guarantee in GST-regarding.

For the uniformity in implementation and in  
 exercise of the powers conferred under Section 168  
 of the Goa Goods and Services Tax Act, 2017 (Goa  
 Act 4 of 2017) it is hereby directed that the Said  
 Circular issued by the GST Policy Wing, Central  
 Board of Indirect Taxes and Customs, Department  
 of Revenue, Ministry of Finance, Government of  
 India shall be applicable, *mutatis mutandis*, in  
 implementation of the Goa Goods and Services Tax  
 Act, 2017 (Goa Act 4 of 2017). A copy of the above  
 referred Circular is attached herewith as Annexure.

Representations have been received from the  
 trade and field formations seeking clarification on  
 certain issues with respect to taxability of activity  
 of providing personal bank guarantee by Directors  
 to banks for securing credit facilities for the  
 company. Similarly, clarifications are being sought  
 with respect to taxability and valuation of the  
 activity of providing corporate guarantee by a  
 related person to banks/financial institutions for  
 another related person, as well as by a holding  
 company in order to secure credit facilities for its  
 subsidiary company.

Difficulty, if any, in implementation of this  
 Circular may please be brought to the notice of the  
 undersigned.

2. In order to ensure uniformity in the  
 implementation of the provisions of law across the  
 field formations, the Board, in exercise of its powers  
 conferred by Section 168 (1) of the Central Goods  
 and Services Tax Act, 2017 (hereinafter referred to  
 as "CGST Act"), hereby clarifies the issues as under:

Given under the seal of this Office.

Vishant S. N. Gaunekar, Commissioner of State  
 Taxes, Goa.

Panaji, 30th October, 2023.

Sr. No.	Issue	Clarification
1	2	3
1.	Whether the activity of providing personal guarantee by the Director of a company to the bank/financial institutions for sanctioning of credit facilities to the said company without any consideration will be treated as a supply of service or not and whether the same will attract GST or not	As per Explanation (a) to Section 15 of CGST Act, the director and the company are to be treated as related persons. As per Clause (c) of sub-section (1) of Section 7 of the CGST Act, 2017, read with S. No. 2 of Schedule I of CGST Act, supply of goods or services or both between related persons, when made in the course or furtherance of business, shall be treated as supply even if made without consideration. Accordingly, the activity of providing personal guarantee by the Director to the banks/financial institutions for securing credit facilities for their companies is to be treated as a supply of service, even when made without consideration.

1	2	3
		<p>Rule 28 of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “CGST Rules”) prescribes the method for determining the value of the supply of goods or services or both between related parties, other than where the supply is made through an agent. In terms of Rule 28 of CGST Rules, the taxable value of such supply of service shall be the open market value of such supply.</p> <p>RBI has provided guidelines for obtaining personal guarantee of promoters, directors and other managerial personnel of the borrowing concerns vide Para 2.2.9 of its Circular No. RBI/2021-22/121 dated 9th November, 2021, which is reproduced below:</p> <p><i>“2.2.9 Guidelines relating to obtaining of personal guarantees of promoters, directors, other managerial personnel, and shareholders of borrowing concerns.</i></p> <p><i>Banks should take personal guarantees of promoters, directors, other managerial personnel or major shareholders for the credit facilities granted to corporates, public or private, only when absolutely warranted after a careful examination of the circumstances of the case and not as a matter of course. In order to identify the circumstances under which the guarantee may or may not be considered necessary, banks should be guided by the following broad considerations:</i></p> <p><i>.....</i></p> <p><i>C. Worth of the guarantors, payment of guarantee commission, etc.</i></p> <p><i>Where personal guarantees of directors are warranted, they should bear reasonable proportion to the estimated worth of the person. The system of obtaining guarantees should not be used by the directors and other managerial personnel as a source of income from the company. Banks should obtain an undertaking from the borrowing company as well as the guarantors that no consideration whether by way of commission, brokerage fees or any other form, would be paid by the former or received by the latter, directly or indirectly. This requirement should be incorporated in the bank’s terms and conditions for sanctioning of credit limits. During the periodic inspections, the bank’s inspectors should verify that this stipulation has been complied with. There may, however, be exceptional cases where payment of remuneration. may be permitted e.g. where assisted concerns are not doing well and the existing guarantors are no longer connected with the management but continuance of their</i></p>



1	2	3
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*guarantees is considered essential because the new management's guarantee is either not available or is found inadequate.*

.....”

Accordingly, as per mandate provided by RBI in terms of Para 2.2.9 (C) of RBI's Circular No. RBI/ /2021-22/121 dated 9th November, 2021, no consideration by way of commission, brokerage fees or any other form, can be paid to the director by the company, directly or indirectly, in lieu of providing personal guarantee to the bank for borrowing credit limits. As such, when no consideration can be paid for the said transaction by the company to the director in any form, directly or indirectly, as per RBI mandate, there is no question of such supply/transaction having any openmarket value. Accordingly, the open market value of the said transaction/supply may be treated as zero and therefore, taxable value of such supply may be treated as zero. In such a scenario, no tax is payable on such supply of service by the director to the company.

There may, however, be cases where the director, who had provided the guarantee, is no longer connected with the management but continuance of his guarantee is considered essential because the new management's guarantee is either not available or is found inadequate, or there may be other exceptional cases where the promoters, existing directors, other managerial personnel, and shareholders of borrowing concerns are paid remuneration/ /consideration in any manner, directly or indirectly. In all these cases, the taxable value of such supply of service shall be the remuneration/ /consideration provided to such a person/ /guarantor by the company, directly or indirectly.

2. Whether the activity of providing corporate guarantee by a person on behalf of another related person, or by the holding company for sanction of credit facilities to its subsidiary company, to the bank/financial institutions, even when made without any consideration will be treated as a taxable supply of service or not, and if taxable, what would be the valuation of such supply of services

Where the corporate guarantee is provided by a company to the bank/financial institutions for providing credit facilities to the other company, where both the companies are related, the activity is to be treated as a supply of service between related parties as per provisions of Schedule I of CGST Act, even when made without any consideration.

1	2	3
		<p>Similarly, where the corporate guarantee is provided by a holding company, for its subsidiary company, those two entities also fall under the category of 'related persons'. Hence the activity of providing corporate guarantee by a holding company to the bank/financial institutions for securing credit facilities for its subsidiary company, even when made without any consideration, is also to be treated as a supply of service by holding company to the subsidiary company, being a related person, as per provisions of Schedule I of CGST Act.</p> <p>In respect of such supply of services by a person to another related person or by a holding company to a subsidiary company, in form of providing corporate guarantee on their behalf to a bank/financial institution, the taxable value will be determined as per Rule 28 of CGST Rules.</p> <p>Considering different practices being followed by the field formations and taxpayers in determining such taxable value, in order to provide uniformity in practices and ease of implementation, sub-rule (2) has been inserted in Rule 28 of CGST Rules vide Notification No. 52/2023 dated 26-10-2023, for determining the taxable value of such supply of services between related persons in respect of providing corporate guarantee. Accordingly, consequent to insertion of the said sub-rule in Rule 28 of CGST Rules, in all such cases of supply of services by a related person to another person, or by a holding company to a subsidiary company, in the form of providing corporate guarantee on their behalf to a bank/financial institution, the taxable value of such supply of services, will henceforth be determined as per the provisions of the sub-rule (2) of Rule 28 of CGST Rules, irrespective of whether full ITC is available to the recipient of services or not.</p> <p>It is clarified that the sub-rule (2) of Rule 28 shall not apply in respect of the activity of providing personal guarantee by the Director to the banks/financial institutions for securing credit facilities for their companies and the same shall be valued in the manner provided in S. No. (1) above.</p>

3. It is requested that suitable trade notices may be issued to publicize the contents of this circular.
4. Difficulties, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

Sd/- (Sanjay Mangal), Principal Commissioner (GST).

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